

REMARKS

In response to the Office Action mailed May 2, 2007, please consider the following remarks:

1. Status of Claims

In applicants' Preliminary Amendment filed November 17, 2003, claims 1-26 were canceled without prejudice, claim 27 was amended, claim 28 was retained as originally filed, and claims 29-39 were introduced. Claims 29-39 were canceled and claims 40-41 were added in the Amendment filed January 17, 2007. Thus, claims 40-41 are currently under examination and are amended herein in accordance with the Examiner's recommendation to incorporate reference to deposit numbers. No new matter has been added as a result of these amendments.

2. Biological Deposit and Enablement of the Claims

In accordance with the deposits as described in applicants' Preliminary Amendment, PTA-3980 (deposited with the American Type Culture Collection, 10801 University Boulevard, Manassas, Virginia 20110 under the terms of the Budapest Treaty on December 4, 2001) produces monoclonal antibody 120A-270, the cell PTA-2809 produces monoclonal antibody 115B-151, the cell line PTA-2806 produces monoclonal antibody 117-289, the cell line PTA-2808 produces monoclonal antibody 103-350, the cell line PTA-2807 produces monoclonal antibody 108-394, and the cell line PTA-2810 produces monoclonal antibody 115B-303. The cell lines producing the last five antibodies noted were deposited with the American Type Culture Collection, 10801 University Boulevard, Manassas, Virginia 20110 under the terms of the Budapest Treaty on December 13, 2000 and were accorded the ATCC accession numbers noted above. **All restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent.**

The foregoing was previously stated in the amendment filed January 17, 2007. The recent Office Action instead made reference to the filing on November 17, 2003, so it is not clear whether this statement was considered. To further advance prosecution,

co-filed herewith is a Statement Of Biological Culture Deposit. Moreover, the claims are amended herein to explicitly refer to the deposited hybridoma cell lines.

Accordingly, applicants believe that the biological deposit requirements have been fulfilled and the enablement rejection should be withdrawn.

3. Non-statutory Double Patenting

Applicants respectfully submit that the non-statutory obviousness type double patenting rejection and suggestion regarding filing of a terminal disclaimer with respect to U.S. Patent No. 6,818,392 ("392 patent") is unwarranted. The subject application is a divisional application of that which granted as the '392 patent, U.S. Serial No. 09/731,126 ("6755.US.01 application"). A requirement for restriction was imposed July 16, 2003 in the 6755.US.01 application. Thus, the election of differing claims in the 6755.US.01 application and the subject application, and the creation of the divisional relationship between the applications, was done in response to a restriction requirement, and not of applicants' own accord. 35 U.S.C. § 121 generally prohibits a double patenting rejection where the claimed subject matter is presented in a divisional application as a result of a restriction requirement.

CONCLUSION

The application is considered in good and proper form for allowance. Applicants believe they have addressed all the rejections in the Office communication. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject patent application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,
Lou, et al.

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